

Assembly Bill 513 (Richman)
Lobbying registration: bond consultants
Version: Introduced 2/16/05
Status: Assembly Elections Committee

Summary

Subjects those involved in seeking contracts for state and local governmental bond underwriting services to the lobbying provisions of the Political Reform Act. Also amends section 86205 of the Act to exempt from the lobbyist contingent-fee prohibition the payment of an amount not exceeding 25% of non-contingent salaries or fees in a calendar year for conduct relating to the selection of bond underwriters.

Recommendation

Staff recommends the Commission take no position on this bill.

Background

Assemblyman Keith Richman (R-Northridge), a candidate for state treasurer in 2006, introduced this bill following reports that California political insiders (such as former legislators Willie Brown, Art Agnos, Curt Pringle, Mike Roos) were using their influence to cash in on the state's bond market, presumably at the expense of taxpayers who often end up paying more in fees and interest. The bill follows a rash of national scandals involving bond consultants and allegations of kickbacks, influence peddling and non-competitive "negotiated sales," which can cause governments to pay millions of extra dollars in interest costs and fees.

Analysis

The bill amends the definition of "administrative action" in section 82002 (a term which appears 65 times throughout the Act) to include "the selection of an underwriter for state or local bond business." It also amends section 86205, exempting from the list of prohibitions "the payment of an amount not exceeding 25% non-contingent salaries or fees to a lobbyist for conduct relating to the selection of bond writers." Lobbyists are currently prohibited from accepting contingent payments upon the "defeat, enactment or outcome of any proposed legislation or administrative action." Section 86205(f). This bill would allow lobbyists to accept payments of up to 25% of non-contingent salaries or fees for seeking bond underwriting business.

The bill would increase the number of people and firms who must register as lobbyists and comply with provisions of the Act and be subject to its administrative, civil and criminal penalties. The bill represents a major departure because contracts are currently not covered under administrative actions.

One-year ban implications In addition to the more apparent impacts of the bill, it would extend the one-year ban on certain outgoing state and local government officials and employees from communicating with their former employers in connection with the selection of a bond underwriter.

Given the author's motivation, it is ironic that the bill does little to curb the influence of ex-lawmakers on the business of state and local bond underwriting because they are not currently subject to the one-year ban with regard to the selection of bond underwriters, nor will they be subject to a prohibition under this bill. They are prohibited from "influencing legislative action" but not administrative actions under section 87406(b). According to the author's staff, the goal is to provide some transparency through registration and disclosure by consultants and others who seek to state and local government business for bond underwriters.

Staff Concerns Staff is primarily concerned with two ways in which the bill would cause the Act to depart with its 30-year history. First, the bill would be the first expansion of the lobbyist registration and reporting provisions to the local level. Second, it would make contracts for bond underwriting a sole exception to the rule that contracting does not fall within the scope of administrative action.

Implementation and Costs

It is estimated that the number of individuals engaged in marketing bond underwriting services to state and local agencies is small. If AB 513 becomes law, Commission staff will work with bond industry trade groups to educate underwriters about the new requirement, and to craft a regulation that addresses the issues unique to this new field of governmental decision. Costs of implementation and ongoing advice and enforcement are expected to be minor and absorbable.